IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 709 of 2007(H)

PETITIONER:

ANICHANDRAN T.M.,
SECRETARY, TEMPLE ADVISORY SAMITHY,
THRIKKULANGARA SREE MAHA VISHNU TEMPLE,
THRIKKULANGARA, KAKKAMOOLA, KALLIYOOR,
TRIVANDRUM DISTRICT.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

RESPONDENTS:

1. **TRAVANCORE DEVASWOM BOARD,**
   NANTHANCODE, TRIVANDRUM, REPRESENTED BY
   ITS COMMISSIONER.

2. **THE SECRETARY,**
   TRAVANCORE DEVASWOM BOARD, NANTHANCODE,
   TRIVANDRUM.

3. **THE ASSISTANT COMMISSIONER,**
   TRAVANCORE DEVASWOM BOARD,
   NEYYATTINKARA GROUP, NEYYATTINKARA.

4. **THE SUB GROUP OFFICER,**
   TRAVANCORE DEVASWOM BOARD,
   VELLAYANI SUB GROUP, VELLAYANI,
   TRIVANDRUM DISTRICT.

***Addl.R5 is impleaded:**

R5. SANTHOSH POTTI.V., SON OF VENKITESWARAN POTTI,
AGED 30 YEARS, RESIDING AT REMA BHAVAN, THALAYAL,
BALARAMAPURAM, THIRUVANANTHAPURAM.

(ADDL.R5 IS IMPLEADED AS PER ORDER DTD. 19/01/2007 IN I.A.NO.1029/07)

BY ADV. SRI.C.VIJAYAN, SC, TDB for R1 to R4
SRI.P.RAMAKRISHNAN for Addl.R5
SRI.C.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.709/2007 H

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P1: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DTD. 22/12/2006.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE APPLICATION FOR TRANSFER SUBMITTED BY THE ADDITIONAL 5TH RESPONDENT DTD. 16/12/2006.

EXT.R3(B): COPY OF THE TRANSFER APPLICATION SUBMITTED BY THE SANTHIES OF VEVILA AND KEEZHUVANDA DEVASWOMS DTD. 16/12/2006.

EXT.R3(C): COPY OF THE TRANSFER ORDER NO.3254 DTD. 19/12/2006 PASSED BY THE 3RD RESPONDENT.

EXT.R3(D): COPY OF THE REPORT VIDE NO.3400 DTD. 09/01/2007 SENT BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

5TH RESPONDENT'S EXHIBITS:

EXT.R5(A): COPY OF OFFICE ORDFER NO.2517 DATED 7/10/06.

EXT.R5(B); COPY OF APPLICATION SUBMITTED BY THE 5TH RESPONDENT TO THE ASSISTANT DEVASWOM COMMISSIONER ON 16/12/06.

EXT.R5(C): COPY OF ORDER DTD. 19/12/2006 ISSUED BY THE 3RD RESPONDENT HAS ISSUED AN ORDER.

/TRUE COPY/

Kss

K.K.DENESAN, J.

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WP(C).No.709 OF 2007-H.

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Dated this the 23rd day of January, 2007.

J U D G M E N T

Taking note of the averments made in the writ petition and the orders passed by the 1st respondent on the representations filed by the petitioner, this Court passed order dated 12-1-2007 directing the Asst. Devaswom Commissioner to re-post Sri.Santhosh Potti as Santhi of Thrikkulangara Sree Maha Vishnu Temple within three days and the 3rd respondent was directed to file his counter-affidavit in the meantime. The averments in the writ petition would go to show that because of frequent interventions made by the Officers of the respondent Board changing the Santhis one after another, the devotees felt aggrieved and hence, the petitioner Samithy had to take up the matter. Finally, they have approached this Court impugning the present transfer of Sri.Santhosh Potti.

2. Thereafter, Sri.Santhosh Potti who was not made a respondent in the writ petition, got himself impleaded as additional 5th respondent and brought to the notice of this Court that Sri.Santhosh Potti had already assumed charge in another temple and his substitute has taken charge in

Thrikkulangara Sree Maha Vishnu Temple and if the interim order is implemented, in letter and spirit, that would amount to the reversal of the existing position which has come into existence, consequent on the first order of transfer. Finding that there is prima facie merit in the above contention, that Santhosh Potti is a person who may feel aggrieved if he will be relieved from the post of Santhi to Vevila temple to join duty back in Thrikkulangara Sree Maha Vishnu Temple, this Court directed that status quo as on 19-1-2007 shall be maintained as far as the additional 5th respondent is concerned.

3. Today, the matter has come up for consideration along with C.C.C.No.137/2007. The petitioner alleges that the 3rd respondent has disobeyed the order of this Court, and nothing has been done to comply with the interim order.

4. Shri.Anchal C.Vijayan, counsel for the 3rd respondent submits that certain relevant aspects have not come to the notice of this Court and that there is no wilful disobedience of this Court's order. It is submitted that before receiving the directions issued by the Devaswom Commissioner as seen from the endorsement on Ext.P1, the Santhis concerned were relieved from the respective temples and that they had taken charge and that fact was reported

to the Devaswom Commissioner seeking further directions. It is, therefore, submitted that it is not a case where the 3rd respondent disobeyed or ignored the order passed by the Devaswom Commissioner, as incorrectly stated by the petitioner in the writ petition. Probably the petitioner may not have ready information about the procedure followed by the authorities and that could be the basis to allege that the 3rd respondent has willfully disobeyed the directions issued by the superior officer.

5. Anyway, now that the correct facts have been brought to the notice of this Court, I do not think that this Court should interfere with the fact situation as it prevails today. The addl.5th respondent is now working as Santhi in Vevila temple. One Rajan Potti posted in Thrikkulangara Sree Maha Vishnu Temple, has taken charge of the post of Santhi in that temple. Counsel for the petitioner submits that, if Santhis are going to be transferred frequently, this Court may issue appropriate directions to desist from such acts. I think it will be too early for this Court to say that no changes in the personnel shall be effected as far as Santhis are concerned and they shall not be transferred from one place to another. The respondent Board will have the freedom to

effect such alterations as are necessary in the exigencies of service and the interest of the devotees. Changes, if any, which would call for interference can be subjected to judicial review depending on the facts and circumstances of each case.

6. Definitely, it is the duty of the respondent Board to take into consideration the legitimate interest of the devotees and to take such actions as are necessary to safeguard such interest.

With the above observations, this writ petition is disposed of.

K.K.DENESAN, JUDGE.

kvs/-